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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/922,780 | 08/07/2001 | Takefumi Kawasaki | D-1108 | 8869 |

7590 09/03/2003

KANESAKA AND TAKEUCHI
1423 Powhatan Street
Alexandria, VA 22314

EXAMINER

LAU, TUNG S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| | 2863 |

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) |
|------------------------------|------------------------|---------------------|
| | 09/922,780 | KAWASAKI, TAKEFUMI |
| Examiner | Art Unit | |
| Tung S Lau | 2863 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 August 2003 .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 3-8 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 3-8 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
4) Interview Summary (PTO-413) Paper No(s). _____
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 1, 3, 4, 5, 6, 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa et al. (U.S. Patent 5,625,457) in view of Dalphy et al (U.S. Patent 6,550,021).

Regarding claims 1, 5:

Ogawa discloses a system for a material testing machine, comprising a material testing machine having a load mechanism for applying a load to a test piece (Col. 3, Lines 25-65), sensors for detecting information regarding a load caused by the load mechanism and information regarding a condition of the test piece in accordance with the load (Col. 3, Lines 25-65), and a computer electrically connected to the sensors for receiving outputs from the sensors and processing data to thereby obtain test information of the material testing machine and image data containing load-elongation curve (Col. 3, Lines 25-65, Col. 4, Lines 15-35).

Ogawa does not disclose an outside provider electrically connected to the computer, control computer, and having a web site established therein for receiving outputs of the computer to update the test information and image data

periodically to the web site, said web site including updated test information accessible at any time from another computer or a portable terminal. Dalphy discloses an outside provider electrically connected to the computer, control computer (Col. 2-3, Lines 63-13), and having a web site established therein for receiving outputs of the computer to update the test information and image data periodically to the web site (Col. 2-3, Lines 63-13), said web site including updated test information accessible at any time from another computer or a portable terminal (Col. 2-3, Lines 63-13), in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogawa to have an outside provider electrically connected to the computer, control computer, and having a web site established therein for receiving outputs of the computer to update the test information and image data periodically to the web site, said web site including updated test information accessible at any time from another computer or a portable terminal as taught by Dalphy in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

Regarding claims 3, 4, 6, 7, 8:

Ogawa discloses a method of testing material including the subject matter discussed above except the use of outside provider to send electronic

information to the control computer, obtain information from a website, a terminal is a cellular phone, use the data as an attachment. Dalphy discloses the use of outside provider to send electronic information to the control computer (Col. 2-3, Lines 63-13), obtain information from a website (Col. 2-3, Lines 63-21), a terminal is a cellular phone (Col. 2-3, Lines 63-21), use the data as an attachment (fig. 3, unit 309), in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogawa to have the use of outside provider to send electronic information to the control computer, obtain information from a website, a terminal is a cellular phone, use the data as an attachment as taught by Dalphy in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

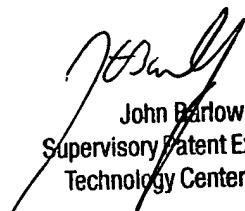
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TC2800 RightFAX Telephone Numbers : TC2800 Official Before-Final RightFAX - (703) 872-9318, TC2800 Official After-Final RightFAX - (703) 872-9319
TC2800 Customer Service RightFAX - (703) 872-9317

TL

August 20, 2003



John Barlow
Supervisory Patent Examiner
Technology Center 2800